

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

**OPENING COMMENTS OF THE GREENLINING INSTITUTE ON THE PROPOSALS  
IN THE UNIVERSAL SERVICE - INTERCARRIER  
COMPENSATION TRANSFORMATION PROCEEDING**

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## INTRODUCTION

The Greenlining Institute (“Greenlining”) submits these Comments in response to the Federal Communications Commission’s (“the Commission”) Public Notice (released August 3, 2011) regarding the various proposals presented in the Universal Service – Intercarrier Compensation proceeding, WC Docket Nos. 10-90, 07-135, 05-337 and 03-109, CC Docket No 01-92 and 96-45 and GN Docket No. 09-51.

Greenlining presented many of its general policy considerations regarding the Commission’s Universal Service – Intercarrier Compensation reform in its Opening Comments (filed April 18) on the Notice of Proposed Rulemaking in this proceeding. Generally, Greenlining urged the Commission to advance affordability as a primary goal of the new Connect America Fund (“CAF”), to establish strong accountability for fund recipients and to maximize the impact of the CAF by requiring that fund recipients meet requirements in providing broadband similar to those required of current eligible telecommunications carriers (ETCs) in the telecommunications field. Greenlining believes that the proposal from the State Members of the Federal-State Universal Service Joint Board (“State Members Plan”) best advances these goals and generally supports this proposal. Greenlining provides more specific comments below.

### **I. The CAF Must Support Affordable Broadband.**

In order to truly advance the proposed universal service goals of ubiquitous broadband, customers must not only have access to broadband, they also must adopt it. Unfortunately, especially for end users in certain communities, affordability is a strong barrier to adoption. Thus, the CAF should include affordability as one of its central missions. The State Members Plan best addresses the issue of affordability and most clearly adopts affordability as a

component.<sup>1</sup> Moreover, the State Members Plan proposes mechanisms to maintain affordability, such as monitoring to ensure that fund recipients do not earn an excessive rate of return and ensuring that the fund does not subsidize video services.<sup>2</sup> In contrast, the Price Cap Companies proposal (“ABC Plan”) would prohibit any regulation of broadband, including, presumably, pricing.<sup>3</sup> Affordability must be a central mission of the CAF, as demonstrated by the gaps in broadband adoption due to affordability factors.

The National Broadband Plan notes that 80 million adults, roughly 35% of the population, do not use broadband at home.<sup>4</sup> The Plan further notes that some communities adopt broadband at significantly lower levels, including 1) Hispanics, half of whom do not use broadband at home; 2) African-Americans, 41% of whom do not adopt broadband; and 3) those whose annual household income is less than \$20,000, 40% of whom do not adopt broadband.<sup>5</sup>

The National Broadband Plan notes that cost is the most significant reason non-adopters cite for their failure to use broadband.<sup>6</sup> Unfortunately, the price for broadband service continues to rise exorbitantly.<sup>7</sup> The broadband adoption rates cited above, which are much lower for communities of color and low-income households, support the view that affordability is a barrier to adoption.

In order to truly advance broadband as a universal service, the Commission should require that recipients of universal service support offer broadband at affordable rates;

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<sup>1</sup> See Comments by the State Members of the Federal-State Joint Board on Universal Service (“State Members Proposal”), WC Docket No. 10-90 *et al.* (filed May 2, 2011) at 7, 23.

<sup>2</sup> See *id.* at 35, 56-57.

<sup>3</sup> See Letter from Robert W. Quinn, Jr., AT&T, Steve Davis, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, and Michael D. Rhoda, Windstream, to Marlene H. Dortch, FCC “ABC Plan”), Attachment 1, WC Docket No. 10-90 *et al.* (filed July 29, 2011) at 13.

<sup>4</sup> See National Broadband Plan at 167, n.1.

<sup>5</sup> *Id.* at 167, Exhibit 9-A.

<sup>6</sup> See *id.* at 168.

<sup>7</sup> The average monthly bill for broadband service nationwide in April 2009 was \$39.00, an increase from \$34.50 in May 2008. JOHN HARRIGAN, HOME BROADBAND ADOPTION 2009, PEW INTERNET & AMERICAN LIFE PROJECT 29 (2009), available at <<http://www.pewinternet.org/Reports/2009/10-Home-Broadband-Adoption-2009.aspx?r=1>>.

additionally, those rates should be based on income levels. The Commission should establish a dollar figure measure of affordability, based not on broadband prices – which, as demonstrated above, are rising quickly – but based rather on income levels. Additionally, those rates should be reasonably uniform across rural and urban areas; recipients of universal service support with identical income levels should pay the same rates regardless of their location. While Greenlining encourages the application of the low-income program towards achieving affordability, Greenlining also strongly believes that the high-cost program should be marshaled towards achieving affordability and thus, adoption.

**A. The State Members Plan Establishes Mechanisms for Achieving Affordability.**

The Commission should not rely on third party reports on broadband prices or quality of service. There is no guarantee that these reports will even be performed, much less that they will meet the requirements of the Commission. Rather, the Commission should require pricing and quality of service data from broadband providers. Such data should not only be collected from universal service support recipients, but should be required of all broadband providers pursuant to the Commission’s duty under section 706 of the Telecommunications Act to conduct an annual review of broadband deployment.

The State Members Plan proposes effective mechanisms to procure data from fund recipients that will allow efficient monitoring for affordability.<sup>8</sup> In contrast, the ABC Plan and RLEC Plan do not provide nearly the amount of accountability required to ensure affordability (or best use of the funds. In order to efficiently achieve its objectives of advancing broadband deployment and voice telephony over broadband, the Commission should establish the necessary reporting, certification and enforcement mechanisms to support its actions. The Commission should not shy away from its responsibilities under the Communications Act and the

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<sup>8</sup> See State Members Plan at 46-62.

Telecommunications Act. Both statutes provide ample authority for the Commission to advance broadband deployment through universal service support. These requirements will ensure that the broadband deployment proposed by the National Broadband Plan and by this proceeding is actually carried out and not frustrated by the lack of accountability.

## **II. Accountability for CAF Recipients Must Be Established by Requirements Parallel to Those of Eligible Telecommunications Carriers.**

In order to most efficiently achieve the goals of universal service, the Commission should restrict CAF recipients to entities that adopt requirements for provision of broadband service similar to those of eligible telecommunications carriers (“ETCs”). Greenlining is concerned with the real world impact of Commission actions. The Commission’s goals for universal service support of broadband must be carried out in practice. Greenlining urges that in the final result, the Commission establish robust requirements – similar to those currently applied to ETCs – for broadband recipients of universal service funds.

The State Members Plan proposes a number of requirements that would advance universal service goals.<sup>9</sup> The State Members Plan effectively achieves many recommendations Greenlining made in opening comments in this proceeding, including demonstrating a commitment and ability to provide service to all customers within a proposed service area and that it will satisfy consumer protection and service quality standards. As the State Members propose, recipients of broadband universal service support must also fulfill “broadband provider of last resort” requirements. Private broadband providers have been slow to offer broadband services in unserved and underserved communities.<sup>10</sup> Cable and phone companies have failed to

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<sup>9</sup> See State Members Plan at 127-135; see also Attachment A.

<sup>10</sup> Federal Trade Commission, MUNICIPAL PROVISION OF WIRELESS INTERNET, (2006) available at <http://tinyurl.com/hos9h>, citing Harold Feld et al., CONNECTING THE PUBLIC: THE TRUTH ABOUT MUNICIPAL BROADBAND 4 (white paper issued by the Consumer Federation Of America, Media Access Project, and Freepress), available at <http://tinyurl.com/y9tgf42>.

both offer service to those communities and offer affordable service in areas where it is available;<sup>11</sup> accordingly, eligible CAF recipients should include state and local governments. Universal service support should carry with it all of the ETC requirements that helped make universal service support such a success for voice service.

In contrast, the ABC Plan rejects all such requirements.<sup>12</sup> The ABC Plan would not guarantee truly ubiquitous broadband service to underserved areas, allowing fund recipients to maintain gaps in service. Thus, the CAF will not get enough “bang for the buck.” The State Members Plan is superior in this regard.

**A. CAF Recipients Should Allow Access to Facilities to Bring Access to Unserved Areas.**

As demonstrated in the National Broadband Plan and in this proceeding, broadband access is of paramount importance. Every effort should be made to bring access to completely unserved areas. As discussed above, ETC requirements are one means of maximizing broadband access. However, CAF recipients should go beyond ETC requirements when it comes to extending network access to unserved areas. Greenlining supports the recommendation that CAF recipients make interconnection points and backhaul capacity available on a reasonable basis, so that local unserved areas can provide their own broadband access.<sup>13</sup> This proposal will facilitate broadband access to additional unserved areas, leveraging more benefits from the CAF. Moreover, this will encourage local businesses and governments to step to the task of achieving broadband ubiquity, bringing economic development and jobs to local communities that likely need them.

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<sup>11</sup> Allen S. Hammond, IV and Chad Rafael, MUNICIPAL BROADBAND: A BACKGROUND BRIEFING PAPER, (Sept. 2006)

<sup>12</sup> See ABC Plan, Attachment 1, at 13.

<sup>13</sup> See Comments of Public Knowledge and Benton Foundation (filed Apr. 18, 2011) at 5-7.

**B. The Commission Should Not Relinquish any Authority as a Condition of the CAF Process.**

The ABC Plan argues that the provision of broadband to underserved and unserved areas requires that network providers be allowed to operate free of any state or federal regulation.<sup>14</sup> This “nonregulation” policy does not, apparently, extend to potential competitive alternatives to the network providers’ services; for example, the ABC Plan proposes that the Commission regulate VoIP traffic, allowing network providers to collect fees for VoIP calls in addition to the fees they collect for handling VoIP data packets.<sup>15</sup> The price cap incumbents claim that such a policy is necessary to encourage investment.<sup>16</sup> However, their plan does not encourage competition in the provision of broadband to underserved and unserved areas, giving themselves the right of first refusal for CAF funding. Thus, the incumbent carriers seek a monopoly on CAF funding under a regime of no regulation.

CAF funding is a benefit to its recipients, so that further “encouragement” in the form of lessened regulation is not necessary. Moreover, universal service goals are to provide ubiquitous service while maintaining an adequate minimum level of service quality. Regulation is necessary to achieve and enforce this service quality, monitoring such characteristics as deployment, service quality and speed.

Under the ABC Plan, the Commission’s open internet policies would not be applicable. Universal service must be at a minimum level of service quality. Broadband service that is not subject to interference by universal service providers should be the minimum level of service. In any case, the Commission need not abdicate any of its authority in order to advance its proposed

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<sup>14</sup> See ABC Plan, Attachment 1 at 13.

<sup>15</sup> See *id.* at 10.

<sup>16</sup> See *id.*

goals in this proceeding. On the contrary, the Commission should assert its authority more robustly in order to achieve the important goals of universal service.

### **III. The States Must Play a Role in Ensuring that the CAF Effectively Achieves Broadband Ubiquity.**

In order to effectively leverage the most benefits from the CAF, recipients must be effectively monitored. For example, the State Members Plan suggests incentives built into the CAF process to encourage actual deployment of broadband networks and to ensure quality of service.<sup>17</sup> Greenlining supports such a mechanism, to ensure that CAF recipients actually offer affordable, high quality broadband service. In contrast, the ABC Plan proposes a minimal level of monitoring and accountability.

Accountability is generally a desirable goal, but effective accountability does require an elevated level of monitoring and enforcement. Greenlining supports an increased role of the states to monitor and enforce requirements applied to CAF recipients.<sup>18</sup>

## **CONCLUSION**

Greenlining strongly supports the Commission as it proposes to apply universal support in advancement of broadband ubiquity. Given the vital role that broadband plays in the economic, social and educational development of the nation, the Commission should take all the steps necessary to ensure that its universal service goals are achieved. Moreover, the Commission should ensure that the CAF achieves as much benefit to unserved and underserved communities as possible. Thus, the Commission should adopt a plan that promises effective leveraging of the CAF. Requirements on CAF recipients should be well directed towards achieving the goals of universal service, and these requirements must be effectively monitored and enforced. The State Members Plan best implements the goals of universal service, and will

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<sup>17</sup> See State Members Plan at 62-63

<sup>18</sup> See State Members Plan at 139-140.



most effectively bring broadband service to unserved and underserved areas. Accordingly, Greenlining recommends that the Commission adopt the proposal from the State Members of the Federal-State Universal Service Joint Board.

Respectfully submitted,

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